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Chapter No. 452

10/SS26/R1067SG

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## ***SENATE BILL NO. 2911***

Originated in Senate *Hernando Guyre* Secretary

SENATE BILL NO. 2911

AN ACT TO AMEND SECTION 17-23-1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AN ADDITIONAL ROUND OF FIRE TRUCKS FOR COUNTIES AND MUNICIPALITIES UNDER THE RURAL FIRE TRUCK ACQUISITION ASSISTANCE PROGRAM; TO AMEND SECTION 19-5-167, MISSISSIPPI CODE OF 1972, TO CHANGE THE VOTING REQUIREMENT FOR THE BOARD OF COMMISSIONERS OF A FIRE PROTECTION DISTRICT FROM A UNANIMOUS VOTE TO A MAJORITY VOTE WHEN ADOPTING A RESOLUTION TO REDUCE THE BOUNDARIES TO EXCLUDE A PORTION OF THAT DISTRICT ANNEXED BY A MUNICIPALITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 17-23-1, Mississippi Code of 1972, is amended as follows:

17-23-1. (1) There is established the Rural Fire Truck Acquisition Assistance Program to be administered by the Department of Insurance for the purpose of assisting counties and municipalities in the acquisition of fire trucks.

(2) There is created in the State Treasury a special fund to be designated as the "Rural Fire Truck Fund." The Legislature may appropriate that amount necessary to fulfill the obligations created under this section by the Department of Insurance, from the State General Fund to such special fund, which sum shall be added to the remainder of the money transferred on July 1, 1995, and during the 1996 Regular Session to the Rural Fire Truck Fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Unobligated amounts remaining in the Rural Fire Truck Fund, Fund No. 3507, or in Fund No. 3508, or in Fund No. 3504, or in any fund created for funds appropriated or otherwise made available for this program, may be used as matching funds by any

county with remaining eligibility as provided herein. It is the intent of the Legislature that the Department of Insurance continue to accept applications from the counties for fire trucks as provided in subsection (3) of this section.

(3) (a) A county that meets the requirements provided herein may receive an amount not to exceed Five Hundred Eighty Thousand Dollars (\$580,000.00) as provided in subparagraphs (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of this paragraph, and such amount shall be divided as follows: an amount of not more than Fifty Thousand Dollars (\$50,000.00) per fire truck for the first six (6) trucks and not more than Seventy Thousand Dollars (\$70,000.00) per fire truck for the seventh, eighth, ninth and tenth trucks. Monies distributed under this chapter shall be expended only for the purchase of new fire trucks and such trucks must meet the National Fire Protection Association (NFPA) standards in the 1900 series.

(i) Any county that has not applied for a fire truck under this section is eligible to submit applications for ten (10) fire trucks as follows: six (6) fire trucks at not more than Fifty Thousand Dollars (\$50,000.00) per truck and four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of Five Hundred Eighty Thousand Dollars (\$580,000.00).

(ii) Any county that has received one (1) fire truck under this section is eligible to submit applications for nine (9) fire trucks as follows: five (5) fire trucks at not more than Fifty Thousand Dollars (\$50,000.00) per truck and four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of Five Hundred Thirty Thousand Dollars (\$530,000.00).

(iii) Any county that has received two (2) fire trucks under this section is eligible to submit an application for eight (8) fire trucks as follows: four (4) fire trucks at not



more than Fifty Thousand Dollars (\$50,000.00) per truck and four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of not more than Four Hundred Eighty Thousand Dollars (\$480,000.00).

(iv) Any county that has received three (3) fire trucks under this section is eligible to submit an application for seven (7) fire trucks as follows: three (3) fire trucks at not more than Fifty Thousand Dollars (\$50,000.00) per truck and four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of not more than Four Hundred Thirty Thousand Dollars (\$430,000.00).

(v) Any county that has received four (4) fire trucks under this section is eligible to submit an application for six (6) fire trucks as follows: two (2) fire trucks at not more than Fifty Thousand Dollars (\$50,000.00) per truck and four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of not more than Three Hundred Eighty Thousand Dollars (\$380,000.00).

(vi) Any county that has received five (5) fire trucks under this section is eligible to submit an application for five (5) fire trucks as follows: one (1) fire truck at not more than Fifty Thousand Dollars (\$50,000.00) per truck and four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of not more than Three Hundred Thirty Thousand Dollars (\$330,000.00).

(vii) Any county that has received six (6) fire trucks under this section is eligible to submit an application for four (4) fire trucks at not more than Seventy Thousand Dollars (\$70,000.00) per truck or a total of not more than Two Hundred Eighty Thousand Dollars (\$280,000.00).

(viii) Any county that has received seven (7) fire trucks under this section is eligible to submit an application for

three (3) fire trucks at not more than Two Hundred Ten Thousand Dollars (\$210,000.00).

(ix) Any county that has received eight (8) fire trucks under this section is eligible to submit an application for two (2) fire trucks at not more than One Hundred Forty Thousand Dollars (\$140,000.00).

(x) Any county that has received nine (9) fire trucks under this section is eligible to submit an application for one (1) fire truck at not more than Seventy Thousand Dollars (\$70,000.00).

(b) The board of supervisors of the county shall submit its request for the receipt of monies to the Department of Insurance. A committee composed of the Commissioner of Insurance, the State Fire Coordinator, the Director of the Rating Bureau and the Director of the State Fire Academy shall review the requests by the boards of supervisors and shall determine whether the county or municipality for which the board of supervisors has requested a truck meets the requirements of eligibility under this chapter.

(c) To be eligible to receive monies under this chapter:

(i) A county or municipality must pledge to set aside or dedicate each year as matching funds, for a period not to extend over ten (10) years, local funds in an amount equal to or not less than one-tenth (1/10) of the amount of monies for which it is requesting distribution from the Rural Fire Truck Fund, which pledged monies may be derived from local ad valorem tax authorized by law or from any other funds available to the county or municipality, except for those funds received by municipalities or counties from the Municipal Fire Protection Fund or the County Volunteer Fire Department Fund, as defined in Sections 83-1-37 and 83-1-39.

(ii) A municipality must provide adequate documentation of its contract with the county that requires the municipality to provide fire protection in rural areas. The term "rural areas" means any area within the county located outside the boundaries of an incorporated municipality or any incorporated municipality with a population of two thousand five hundred (2,500) or less.

(d) The Department of Insurance shall maintain an accurate record of all monies distributed to counties and municipalities and the number of fire trucks purchased and the cost for each fire truck, such records to be kept separate from other records of the Department of Insurance; notify counties and municipalities of the Rural Fire Truck Acquisition Assistance Program and the requirements for them to become eligible to participate; adopt and promulgate such rules and regulations as may be necessary and desirable to implement the provisions of this chapter; and file with the Legislature a report detailing how monies made available under this chapter were distributed and spent during the preceding portion of the fiscal year in each county and municipality, the number of fire trucks purchased, the counties and municipalities making such purchases and the cost of each fire truck purchased.

**SECTION 2.** Section 19-5-167, Mississippi Code of 1972, is amended as follows:

19-5-167. (1) Except as otherwise provided in this section, the powers of each district shall be vested in and exercised by a board of commissioners consisting of five (5) members to be appointed by the board of supervisors. Upon their initial appointment, one (1) of the commissioners shall be appointed for a term of one (1) year; one (1) for a term of two (2) years; one (1) for a term of three (3) years; one (1) for a term of four (4) years; and one (1) for a term of five (5) years; thereafter, each commissioner shall be appointed and shall hold office for a term



of five (5) years. Any vacancy occurring on a board of commissioners shall be filled by the board of supervisors at any regular meeting of the board of supervisors, and the board of supervisors shall have the authority to fill all unexpired terms of any commissioner or commissioners. Notwithstanding the appointive authority herein granted to the board of supervisors, its legal and actual responsibilities, authority and function, subsequent to the creation of any district, shall be specifically limited to the appointive function and responsibilities outlined in Sections 19-5-179, 19-5-189 and 19-5-191. The operation, management, abolition or dissolution of such district, and all other matters in connection therewith, shall be vested solely and only in the board of commissioners to the specific exclusion of the board of supervisors, and the abolition, dissolution or termination of any district shall be accomplished only by unanimous resolution of the board of commissioners. However, if any area within the boundaries of a fire protection district created under Section 19-5-151 et seq. is annexed by a municipality, a reduction of the boundaries of the district to exclude such annexed area may be accomplished by the adoption of a resolution by a majority vote of the board of commissioners of that fire protection district. The board of commissioners of a fire protection district created under Section 19-5-151 et seq., by unanimous resolution, may dissolve such district and, under Section 19-5-215 et seq., may create a fire protection grading district consisting of the same boundaries as the previously existing fire protection district. Petition and election requirements of Sections 19-5-217 through 19-5-227 shall not apply where the board of commissioners dissolves a fire protection district and creates a fire protection grading district under this section. Except as otherwise provided herein, such board of commissioners shall have no power, jurisdiction or authority to abolish, dissolve or terminate any district while the district has

any outstanding indebtedness of any kind or character, unless such dissolution or termination is accomplished under the provisions of Section 19-5-207. If a fire protection district is dissolved in accordance with this subsection, the board of supervisors may continue to levy the same millage as was being levied within the boundaries of the fire protection district before its dissolution provided that a fire protection grading district is created, in accordance with Section 19-5-215 et seq., with identical boundaries as the previously existing fire protection district.

(2) The board of supervisors of the incorporating county, may upon receipt of a unanimous resolution from two (2) or more boards of commissioners of duly created fire protection districts, may consolidate such districts for administrative purposes. Upon receipt of unanimous resolutions requesting consolidation, the board of supervisors shall conduct a public hearing to determine the public's interest. Following such a hearing, the board may create a consolidated commission consisting of the participating districts for administrative purposes. Such districts then shall dissolve their respective boards of commissioners, transferring all records to the consolidated board of commissioners. A consolidated board of commissioners consisting of not less than five (5) members shall be appointed with equal representation from each participating district. Any commissioners appointed to a consolidated fire protection district commission must comply with eligibility requirements as authorized in Section 19-5-171. In the event that a consolidated fire protection district commission consists of an even number of members, the chairman elected as authorized by Section 19-5-169 shall vote only in the event of a tie. General powers and duties of commissioners and commissions and other related matters as defined in Sections 19-5-151 through 19-5-207 shall apply to the entire area contained in the consolidating fire protection districts as described in the



resolutions incorporating the fire protection districts as well as to subsequent annexations.

(3) If the creation of the district is initiated in accordance with Section 19-5-153(3), the powers of the district shall be vested in and exercised by a board of commissioners selected in the following manner:

(a) Upon creation of the district, the board of directors of the former nonprofit, nonshare corporation shall serve as the board of commissioners of the newly created water district for a period not to exceed sixty (60) days. The initial commissioners shall be subject to the requirements of Section 19-5-171, except the requirement for executing a bond. If an initial commissioner fails to meet a requirement of Section 19-5-171 as provided in this section, the board of supervisors shall appoint a member to fill that vacancy on the board of commissioners.

(b) In the resolution creating a district initiated in accordance with Section 19-5-153(3), the board of supervisors shall direct the existing board of directors of the rural water association to create within the district five (5) posts from which commissioners shall be elected. The board of supervisors shall designate the positions to be elected from each post as Post 1, Post 2, Post 3, Post 4 and Post 5. Post 5 shall be an at-large post composed of the entire district. Within sixty (60) days following creation of the district, the board of supervisors shall call an election. Such election shall be held and conducted by the election commissioners in accordance with the general laws governing elections. The election commissioners shall determine which of the qualified electors of the county reside within the district and only those electors shall be entitled to vote in the election. Notice of the election setting forth the time, place or places and the purpose of the election shall be published by the

clerk of the board of supervisors in the manner provided in Section 19-5-155.

The initial elected commissioners shall be elected to a term of office expiring on December 31 of the year in which the next succeeding general election for statewide officials is held. After the initial term of office, commissioners shall be elected to four-year terms. Vacancies shall be filled by the procedure set forth in Section 23-15-839.

**SECTION 3.** This act shall take effect and be in force from and after July 1, 2010.

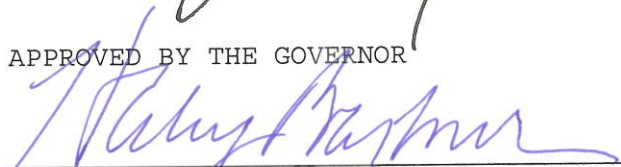
PASSED BY THE SENATE  
February 10, 2010

  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 9, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
GOVERNOR  
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